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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Renee Escobedo,

10 Plaintiff,

11 v.

12 Commissioner of Social Security  
13 Administration,

14 Defendant.

No. CV-23-00099-PHX-SMB

**ORDER**

15 At issue is the denial of Renee Escobedo’s Application for Social Security Disability  
16 Insurance (“SSDI”) benefits by the Social Security Administration (“SSA”) under the  
17 Social Security Act (the “Act”). Plaintiff filed a Complaint, (Doc. 1), and an Opening  
18 Brief, (Doc. 8), seeking judicial review of that denial. Defendant SSA filed an Answering  
19 Brief, (Doc. 13), to which Plaintiff replied, (Doc. 14). After reviewing the parties’ briefs,  
20 the Administrative Record, (Doc. 7), and the Administrative Law Judge’s (“ALJ”)   
21 decision, (Doc. 7-3 at 16–24), the Court will affirm the ALJ’s decision for the reasons  
22 addressed herein.

23 **I. BACKGROUND**

24 Plaintiff protectively filed an Application for SSDI benefits in on August 18, 2017,  
25 alleging disability beginning July 12, 2017. (Doc. 7-4 at 32.) Plaintiff’s claim was initially  
26 denied on October 26, 2017. (*Id.*) After reconsideration, Plaintiff’s claim was again denied  
27 on July 26, 2018. (*Id.*) A hearing was held before ALJ Allen Erickson on June 23, 2020.  
28 (*Id.*) After considering the medical evidence and opinions, the ALJ determined that

1 Plaintiff was not disabled. (*Id.* at 41.) Plaintiff appealed, and the SSA Appeals Council  
2 remanded the decision to a different ALJ. (Doc. 7-3 at 16.)

3 A second hearing was then held before ALJ Ted Armbruster on October 19, 2021.  
4 (*Id.*) After considering the medical evidence and opinions, he determined that Plaintiff  
5 suffered from several medically determinable impairments but did not have a severe  
6 impairment or combination of impairments. (*Id.* at 19.) The ALJ concluded that the  
7 impairments did not significantly limit Plaintiff's ability to perform basic work activities,  
8 and that therefore she was not disabled. (*Id.* at 23–24.) Thereafter, the Appeals Council  
9 denied Plaintiff's Request for Review of the ALJ's decision—making it the SSA  
10 Commissioner's (the "Commissioner") final decision—and this appeal followed. (*Id.* at  
11 2–4.)

## 12 **II. LEGAL STANDARD**

13 To determine whether a claimant is disabled for purposes of the Act, the ALJ  
14 follows a five-step process. 20 C.F.R. § 404.1520(a). The claimant bears the burden of  
15 proof on the first four steps, and the burden shifts to the Commissioner at step five. *Tackett*  
16 *v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999). At the first step, the ALJ determines whether  
17 the claimant is engaging in substantial gainful activity. 20 C.F.R. § 404.1520(a)(4)(i). If  
18 so, the claimant is not disabled, and the inquiry ends. *Id.* At step two, the ALJ determines  
19 whether the claimant has a "severe" medically determinable physical or mental  
20 impairment. § 404.1520(a)(4)(ii). If not, the claimant is not disabled and the inquiry ends.  
21 *Id.*

22 At step three, the ALJ considers whether the claimant's impairment or combination  
23 of impairments meets or medically equals an impairment listed in Appendix 1 to Subpart  
24 P of 20 C.F.R. pt. 404. § 404.1520(a)(4)(iii). If so, the claimant is automatically found to  
25 be disabled. *Id.* If not, the ALJ proceeds to step four. At step four, the ALJ assesses the  
26 claimant's residual functional capacity ("RFC") and determines whether the claimant can  
27 perform past relevant work. § 404.1520(a)(4)(iv). If so, the claimant is not disabled, and  
28 the inquiry ends. *Id.* If not, the ALJ proceeds to the fifth and final step, which addresses

1 whether the claimant can perform any other work based on the claimant's RFC, age,  
2 education, and work experience. § 404.1520(a)(4)(v). If so, the claimant is not disabled.  
3 *Id.* If not, the claimant is disabled.

4 An ALJ's factual findings "shall be conclusive if supported by substantial  
5 evidence." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1153 (2019). The Court may set aside  
6 the Commissioner's disability determination only where it is not supported by substantial  
7 evidence or is based on legal error. *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007).  
8 Substantial evidence is relevant evidence that a reasonable person might accept as adequate  
9 to support a conclusion when considering the record as a whole. *Id.* Generally, "[w]here  
10 the evidence is susceptible to more than one rational interpretation, one of which supports  
11 the ALJ's decision, the ALJ's conclusion must be upheld." *Thomas v. Barnhart*, 278 F.3d  
12 947, 954 (9th Cir. 2002). In determining whether to reverse an ALJ's decision, district  
13 courts review only those issues raised by the party challenging the decision. *See Lewis v.*  
14 *Apfel*, 236 F.3d 503, 517 n.13 (9th Cir. 2001).

### 15 **III. DISCUSSION**

16 Plaintiff solely argues that the ALJ erred by not considering her stroke or ejection  
17 fracture to be a severe impairment. (Doc. 8 at 4–5.) Plaintiff asserts that the ALJ did not  
18 fully or fairly evaluate the record on this issue. (*Id.*; Doc. 14 at 3.) The Commissioner  
19 argues that substantial evidence supports the ALJ's decision. (Doc. 13 at 2.) After  
20 reviewing the administrative record, the Court agrees with the Commissioner.

21 Here, the ALJ began his analysis at step one. (Doc. 7-3 at 19.) The ALJ found that  
22 while Plaintiff had engaged in substantial gainful activity, no further information, evidence  
23 or medical records were submitted. (*Id.*) Therefore, the ALJ noted there was "some  
24 question" as to the amount earned and the degree of activity performed. (*Id.*) Viewing this  
25 in the light most favorable to Plaintiff, the ALJ found that Plaintiff satisfied step one and  
26 continued with the inquiry. (*Id.*)

27 At step two, the ALJ noted several medically determinable impairments, but found  
28 that none of these impairments, either solely or in combination, significantly limited

1 Plaintiff's ability to perform basic work-related activities for twelve consecutive months.  
2 (*Id.*) Therefore, the ALJ determined that Plaintiff did not have a "severe" impairment and  
3 ended his analysis. (*Id.* at 19–24.)

4 In making this determination, the ALJ appropriately relied on the medical evidence.  
5 (*Id.*) Specifically, the ALJ noted that Plaintiff's "statements concerning the intensity,  
6 persistence and limiting effects of these symptoms are not entirely consistent." (*Id.* at 20.)  
7 Moreover, the ALJ referenced that Plaintiff was treated conservatively, and that her  
8 respiratory, cardiovascular, neurological and musculoskeletal exam findings were  
9 minimal. (Doc. 7-3 at 21.) Lastly, the ALJ found the opinions of the state agency medical  
10 consultants persuasive. (*Id.* at 23.) The ALJ noted that these examiners offered detailed  
11 summaries of their findings, which were also consistent with the overall record and medical  
12 evidence. (*Id.*) The ALJ further found that these findings were generally normal and did  
13 not indicate any severe impairment. (*Id.*) Notably, his analysis included Plaintiff's  
14 complaints regarding the ejection fracture and her stroke. (*Id.* at 19–23.) These findings  
15 directly contradict Plaintiff's similar complaints in her brief. (*See* Doc. 8 at 4–5.)  
16 Accordingly, the Court finds that the ALJ's decision on this issue is supported by  
17 substantial evidence. *Orn*, 495 F.3d at 630.

18 Plaintiff also argues that her ejection fracture may potentially meet the severity  
19 criteria in Appendix 1 to Subpart P of 20 C.F.R. Part 404. (Doc. 8 at 4.) An impairment,  
20 or combination of impairments, is medically equivalent to a listing "if it is at least equal in  
21 severity and duration to the criteria of any listed impairment," considering "all evidence in  
22 [the] case record about [the] impairment(s) and its effects on [the claimant] that is  
23 relevant . . . ." 20 C.F.R. § 404.1526(a), (c). "An ALJ must evaluate the relevant evidence  
24 before concluding that a claimant's impairments do not meet or equal a listed impairment."  
25 *Walraven v. Astrue*, No. CV07-02041-PHX-GMS, 2008 WL 5427735, at \*3 (D. Ariz. Dec.  
26 31, 2008) (cleaned up). Claimants have a high burden to demonstrate that they meet a  
27 listed impairment because listed impairments were "designed to operate as a presumption  
28 of disability that makes further inquiry unnecessary." *Kennedy v. Colvin*, 738 F.3d 1172,

1 1176 (9th Cir. 2013) (internal quotations omitted).

2 The specific subsection of the appendix requires that an ejection fraction of thirty  
3 percent or less also be supported by additional criteria. 20 C.F.R. § 404(A)–(B). However,  
4 here Plaintiff admits that she has not met any of section B’s required additional criteria.  
5 (Doc. 8 at 4.) Plaintiff also asserts that the ALJ must have considered the section B criteria.  
6 (*Id.*) Even so, a review of the decision shows that the ALJ considered these criteria when  
7 reviewing the medical evidence. (Doc. 7-3 at 19–23.) In sum, Plaintiff meeting these  
8 additional criteria was not supported by the objective medical evidence, and therefore did  
9 not amount to a listed impairment.

10 Finally, Plaintiff argues that the ALJ here “based his opinion on the apparently  
11 missed information in their review of the medical records and the opinion of the prior ALJ  
12 who did the same thing.” (Doc. 14 at 3.) Neither assertion is supported by the record. The  
13 opinion shows that the ALJ reviewed the record and considered the evidence in its entirety.  
14 In short, the ALJ properly reviewed the medical evidence and opinions. Plaintiff’s  
15 disagreement with the ALJ’s interpretation of the record and new complaints in her brief  
16 is insufficient to overturn the decision. The ALJ’s decision is supported by substantial  
17 evidence, and therefore the Court will affirm.

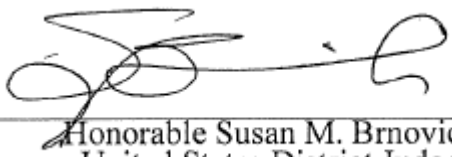
#### 18 **IV. CONCLUSION**

19 For the reasons discussed above,

20 **IT IS ORDERED** affirming the January 21, 2022 decision of the ALJ, as upheld  
21 by the Appeals Council.

22 **IT IS FURTHER ORDERED** directing the Clerk to enter final judgement  
23 consistent with this Order and close this case.

24 Dated this 8th day of March, 2024.

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26   
27 Honorable Susan M. Brnovich  
28 United States District Judge